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March 6, 1992

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RECEIVED

Ms. Donna R. Searcy
Secretary
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

MAR 6 - 1992

Federal Communications Commission
Office of the Secretary

RE: BPED-910412MC
Southwestern Ohio Seniors'
Services, Inc.
Reading, OH

Dear Ms. Searcy:

Transmitted herewith, in triplicate, on behalf of Southwestern Ohio Seniors' Services, Inc., is a PETITION FOR LEAVE TO AMEND its above-referenced pending application for facilities at Reading, Ohio.

Should further information be desired regarding this amendment, kindly communicate directly with this office.

Very truly yours


Lee W. Shubert

Enclosures (3)

LWS/blr

RECEIVED

MAR 6 - 1992

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

Federal Communications Commission
Office of the Secretary

In re Application of:)
)
SOUTHWESTERN OHIO SENIORS') File No. BPED-910412MC
SERVICES, INC.)
)
For a Construction Permit For a)
New Non-Commercial FM Station)
on Channel 207 at Reading, Ohio)

TO: Chief, Audio Services Division
Mass Media Bureau

PETITION FOR LEAVE TO AMEND

)
Southwestern Ohio Seniors' Services, Inc. ("SOSSI"), by
its counsel, pursuant to Sections 1.65, 73.3514 and
73.3522(a)(6) of the Commission's Rules, hereby respectfully
requests leave to amend the above-referenced application to
incorporate the amendment included herewith, as Attachment
A, pertaining to SOSSI's Certification of eligibility to
hold a Federal benefit under the Anti-Drug Abuse Act. In
support thereof, the following is respectfully shown:

1. To comply with Section 73.3522(a)(6), an applicant
seeking leave to submit a pre-designation amendment, after
the window for petitions to deny, must demonstrate that good
cause exists for the acceptance of the amendment. That
demonstration requires a showing that the amendment will
not (1) require the addition of issues (2) cause disruption
of the Commission's processes (3) prejudice any other party
(4) afford the amending party a comparative advantage, or
(5) conflict with an application filed after the initial

applicant but prior to the application amendment. See Erwin O'Connor Broadcasting Co., 22 FCC 2d 140, 18 RR 2d 820 Rev. Bd., 1970).

2. SOSI submits that the instant amendment fully meets the test of Erwin O'Connor, and is otherwise consistent with §73.3522(a)(6) of the Rules. This amendment contemplates only an updating of information in compliance with recently imposed FCC requirements. Moreover, it is submitted timely after the imposition of the FCC requirements. In short, this amendment is consistent with the letter and spirit of Section 1.65 of the Commission's Rules and will not require the addition of any issues.

3. The amendment will cause no disruption of the proceeding, nor will it prejudice any other party to the proceeding. The amendment is such that nothing pertaining to the substantive portions of SOSI's application is changed. Accordingly, the amendment cannot work to SOSI's comparative advantage nor to the comparative disadvantage to any of the other applicants to this proceeding, and good cause exists by the acceptance of this amendment. William R. Gaston, 35 FCC 2d 615, 24 RR 2d 741 (Rev. Bd., 1972).

WHEREFORE, the premises considered and good cause having been shown, it is respectfully requested that Southwestern Ohio Seniors' Services, Inc., be granted leave to amend its application and that the attached amendment be accepted.

SERVICES, INC.

SOUTHWESTERN OHIO SENIORS'

By:


Lee W. Shubert

Its Attorney

HALEY, BADER & POTTS
2000 M Street, NW
Suite 600
Washington, DC 20036
202/331-0606

March 6, 1992

RECEIVED

AMENDMENT

MAR 6 - 1992

(FCC File No. BPED-910412MC)

Federal Communications Commission
Office of the Secretary

Please amend the pending application (FCC Form 340) of Southwestern Ohio Seniors' Services, Inc., (File No. BPED-910412MC), for a construction permit for a new non-commercial educational FM Broadcast Station on FM Channel 207 at Reading, Ohio, in the following respects:

RE: Anti-Drug Abuse Act. Associate the attached Certification Pursuant to §1.2002 of the Commission's Rules under the Anti-Drug Abuse Act of 1988, as Exhibit 5 of Southwestern Ohio Seniors' Services, Inc.'s pending application.

CERTIFICATION

I, the undersigned, hereby certify that the statements contained in this amendment are true, complete and correct, to the best of my knowledge and belief, and are made in good faith.

Signed and dated this 4TH day of FEBRUARY, 1992.

SOUTHWESTERN OHIO SENIORS'
SERVICES, INC.

By: _____


Jerry D. Smart
President

CERTIFICATION PURSUANT TO § 1.2002 OF THE COMMISSION'S RULES

Anti-Drug Abuse Act of 1988

PUBLIC LAW 100-690--NOV. 18, 1988

Subtitle G—Denial of Federal Benefits to Drug Traffickers and Possessors.

SEC. 1001. DENIAL OF FEDERAL BENEFITS TO DRUG TRAFFICKERS AND POSSESSORS.

(a) **DRUG TRAFFICKERS.**—(1) Any individual who is convicted of any Federal or State offense consisting of the distribution of controlled substances (as such terms are defined for purposes of the Controlled Substances Act) shall—

(A) at the discretion of the court, upon the first conviction for such an offense be ineligible for any or all Federal benefits for up to 5 years after such conviction;

(B) at the discretion of the court, upon a second conviction for such an offense be ineligible for any or all Federal benefits for up to 10 years after such conviction; and

(C) upon a third or subsequent conviction for such an offense be permanently ineligible for all Federal benefits.

(2) The benefits which are denied under this subsection shall not include benefits relating to long-term drug treatment programs for addiction for any person who, if there is a reasonable body of evidence to substantiate such declaration, declares himself to be an addict and submits himself to a long-term treatment program for addiction, or is deemed to be rehabilitated pursuant to rules established by the Secretary of Health and Human Services.

(b) **DRUG POSSESSORS.**—(1) Any individual who is convicted of any Federal or State offense involving the possession of a controlled substance (as such term is defined for purposes of the Controlled Substances Act) shall—

(A) upon the first conviction for such an offense and at the discretion of the court—

(i) be ineligible for any or all Federal benefits for up to one year;

(ii) be required to successfully complete an approved drug treatment program which includes periodic testing to insure that the individual remains drug free;

(iii) be required to perform appropriate community service; or

(iv) any combination of clauses (i), (ii), or (iii); and

(B) upon a second or subsequent conviction for such an offense be ineligible for all Federal benefits for up to 5 years after such conviction as determined by the court. The court shall continue to have the discretion in subparagraph (A) above. In imposing penalties and conditions under subparagraph (A), the court may require that the completion of the conditions imposed by clause (ii) or (iii) be a requirement for the reinstatement of benefits under clause (i).

(2) The penalties and conditions which may be imposed under this subsection shall be waived in the case of a person who, if there is a reasonable body of evidence to substantiate such declaration, declares himself to be an addict and submits himself to a long-term treatment program for addiction, or is deemed to be rehabilitated pursuant to rules established by the Secretary of Health and Human Services.

(c) **SUSPENSION OF PERIOD OF INELIGIBILITY.**—The period of ineligibility referred to in subsections (a) and (b) shall be suspended if the individual—

(A) completes a supervised drug rehabilitation program after becoming ineligible under this section;

(B) has otherwise been rehabilitated; or

(C) has made a good faith effort to gain admission to a supervised drug rehabilitation program, but is unable to do so because of inaccessibility or unavailability of such a program, or the inability of the individual to pay for such a program.

(d) **DEFINITIONS.**—As used in this section—

(1) the term "Federal benefit"—

(A) means the issuance of any grant, contract, loan, professional license, or commercial license provided by an agency of the United States or by appropriated funds of the United States; and

(B) does not include any retirement, welfare, Social Security, health, disability, veterans benefit, public housing, or other similar benefit, or any other benefit for which payments or services are required for eligibility; and

(2) the term "veterans benefit" means all benefits provided to veterans, their families, or survivors by virtue of the service of a veteran in the Armed Forces of the United States.

(e) **INAPPLICABILITY OF THIS SECTION TO GOVERNMENT WITNESSES.**—The penalties provided by this section shall not apply to any individual who cooperates or testifies with the Government in the prosecution of a Federal or State offense or who is in a Government witness protection program.

(f) **INDIAN PROVISION.**—Nothing in this section shall be construed to affect the obligation of the United States to any Indian or Indian tribe arising out of any treaty, statute, Executive order, or the trust responsibility of the United States owing to such Indian or Indian tribe. Nothing in this subsection shall exempt any individual Indian from the sanctions provided for in this section, provided that no individual Indian shall be denied any benefit under Federal Indian programs comparable to those described in subsection (d)(1)(B) or (d)(2) above.

(g) **PRESIDENTIAL REPORT.**—(1) On or before May 1, 1989, the President shall transmit to the Congress a report—

(A) delineating the role of State courts in implementing this section;

(B) describing the manner in which Federal agencies will implement and enforce the requirements of this section;

(C) detailing the means by which Federal and State agencies, courts, and law enforcement agencies will exchange and share the data and information necessary to implement and enforce the withholding of Federal benefits; and

(D) recommending any modifications to improve the administration of this section or otherwise achieve the goal of discouraging the trafficking and possession of controlled substances.

(2) No later than September 1, 1989, the Congress shall consider the report of the President and enact such changes as it deems appropriate to further the goals of this section.

(h) **EFFECTIVE DATE.**—The denial of Federal benefits set forth in this section shall take effect for convictions occurring after September 1, 1989.

§§ 1.2091 and 1.2002 of the Commission's Rules

Subpart P—Implement of the Anti-Drug Abuse Act of 1988.

§ 1.2001 Purpose.

To determine eligibility for professional and/or commercial licenses issued by the Commission with respect to any denials of Federal benefits imposed by Federal and/or state courts under authority granted in 21 U.S.C. 853a.

§ 1.2002 Applicants required to submit information.

(a) In order to be eligible for any new, modified, and/or renewed instrument of authorization from the Commission, including but not limited to, authorizations issued pursuant to sections 214, 301, 302, 303(1), 308, 310(d), 319, 325(b), 351, 361(b), 362(b), 381, and 385 of the Communications Act of 1934, as amended, by whatever name that instrument may be designated, all applicants shall certify that neither the applicant nor any party to the application is subject to a denial of Federal benefits that includes FCC benefits pursuant to section 5301 of the

Anti-Drug Abuse Act of 1988, 21 U.S.C. 853a. If a section 5301 certification has been incorporated into the FCC application form being filed, the applicant need not submit a separate certification. If a section 5301 certification has not been incorporated into the FCC application form being filed, the applicant shall be deemed to have certified by signing the application, unless an exhibit is included stating that the signature does not constitute such a certification and explaining why the applicant is unable to certify. If no FCC application form is involved, the applicant must attach a certification to its written application. If the applicant is unable to so certify, the applicant shall be ineligible for the authorization for which it applied, and will have 90 days from the filing of the application to comply with this rule. If a section 5301 certification has been incorporated into the FCC application form, failure to respond to the question concerning certification shall result in dismissal of the application pursuant to the relevant processing rules.

(b) A party to the application, as used in paragraph (a) of this section shall include:

(1) If the applicant is an individual, that individual;


(2) If the applicant is a corporation or unincorporated association, all officers, directors, or persons holding 5% or more of the outstanding stock or shares (voting and/or non-voting) of the applicant; and

(3) If the applicant is a partnership, all non-limited partners and any limited partners holding a 5% or more interest in the partnership.

(c) The provisions of paragraphs (a) and (b) of this section are not applicable to the Amateur Radio Service, the Citizens Band Radio Service, the Radio Control Radio Service, or to users in the Public Mobile Services and the Private Radio Services that are not individually licensed by the Commission.

I, JERRY D. SMART, have read the above provisions of the Anti-Drug Abuse Act of 1988 and the Commission's rules implementing the Anti-Drug Abuse Act of 1988 and do hereby certify under penalty of perjury, that to the best of my knowledge and belief, neither the applicant nor any party to the application is subject to a denial of the Federal benefits being sought pursuant to § 5301 of the Anti-Drug Abuse Act of 1988.

Dated: 2-4-92

Signed: 

PRESIDENT
(title)

on behalf of SOUTHWESTERN OHIO SENIORS' SERVICES, INC.
(applicant)

CERTIFICATE OF SERVICE

I, Barbara L. Rascon, a secretary in the law offices of Haley, Bader & Potts, hereby certify that I have on this 6th day of March 1992, sent copies of the foregoing "PETITION FOR LEAVE TO AMEND", by first-class, United States mail, postage prepaid, to the following:

*Larry Eads, Chief
Audio Services Division
Mass Media Bureau
Federal Communications Commission
1919 M Street, NW, Room 302
Washington, DC 20554

Dennis Williams, Chief
FM Branch
Federal Communications Commission
1919 M Street, NW, Room 332
Washington, DC 20554

Wayne Coy, Jr., Esq.
Cohn & Marks
1333 New Hampshire Avenue, NW
Suite 600
Washington, DC 20036-1573
(Counsel to Miami University)


Barbara L. Rascon

*Hand Delivery



Maple Knoll
Center for
Older Adults

Alan Bayowski
Director of Community Relations

9/08/13 MB

Southwestern Ohio
Seniors' Services, Inc.

11199 Springfield Pike
Cincinnati, Ohio 45246
Phone 513-782-2449

Jerry D. Smart
President
Chief Executive Officer

DUPLICATE

Amendment to BPED-910412MC

Please amend the above referenced application of Southwestern Ohio Seniors' Services, Inc., for a construction permit for a new noncommercial educational FM station on Channel 207A in Reading, Ohio, to include the below information regarding occupational exposure to nonionizing radiation, as requested in the FCC's letter of July 19, 1991.

When it is necessary for workers to climb the proposed tower to within 4.5 meters (15 feet) of the proposed antenna, the transmitter will be shut off to remove power from this antenna. This will prevent occupational exposure to power density levels exceeding those outlined in ANSI Standard C95.1 - 1982.

Respectfully submitted,

Southwestern Ohio Seniors' Services, Inc

By: 

Jerry D. Smart
President

Date: 8/7/91

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON, D.C. 20554

19 JUL 1991

IN REPLY REFER TO:
8920-DJF

President and Board of Trustees
of The Miami University
201 Roudebush
Ford, OH 45056

Mr. Alan R. Bayowski
Director of Community Relations
Southwestern Ohio Seniors' Services, Inc.
11100 Springfield Pike
Cincinnati, OH 45246

In re: NEW (FM); Reading, OH
The President and Board of Trustees
of The Miami University
BPED-890530MA

NEW (FM); Reading, OH
Southwestern Ohio Seniors'
Services, Inc.
BPED-910412MC

Dear Applicants:

Preliminary engineering reviews of the above-referenced applications reveal that the proposed facilities would result in mutual electrical interference if they were constructed as specified in the subject applications. Thus the applications are considered to be mutually exclusive as they now stand. Grant of either of these applications would come only after a comparative hearing.

The policy of the Commission is to avoid sending educational applications to hearing, if at all possible, so that the substantial delays and expenses involved in the hearing can be avoided. This policy finds its underpinnings in the inability of many educational applicants to bear the costs (such as legal fees) that they would incur in prosecuting mutually exclusive applications through the hearing process.

Accordingly, we are taking this opportunity to make you aware of your application's mutual exclusivity. We will withhold further action with respect to the subject applications for a period of sixty (60) days so that you have an opportunity to evaluate the situation and hopefully take such steps as would remove the mutual exclusivity. Possible alternatives include the use of directional antennas for mutual protection, decreases in operating powers or

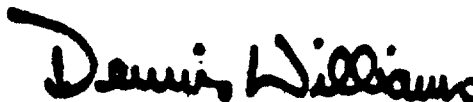
antenna heights, and frequency changes to increase the spectral separation of the proposed facilities. Share-time agreements between mutually exclusive educational applicants have also been employed to avoid designating their applications for hearing.

In sum, we urge you to communicate with each other concerning this matter and, if possible, to amend your applications so as to remove the present conflict between them. This would be in the interest of each of you and of the public that you are both proposing to serve.

With regard to the Southwestern Ohio Seniors' Services, Inc.'s application only: an engineering study based upon OST Bulletin No. 65, October, 1985 entitled "Evaluating Compliance with FCC-Specified Guidelines for Human Exposure to Radiofrequency Radiation" reveals that you did not address the issue of potential occupational hazards caused by the proposed facilities. Therefore, you are required to amend your application to explain what steps will be taken to limit radiofrequency radiation exposure to workers authorized access on the tower structure.

Further action on applications BPED-890530MA and BPED-910412MC will be withheld for a period of sixty days from the date of this letter to provide you an opportunity to reply. Failure to respond within this time period will result in these applications being designated for a comparative hearing. Please note that any amendment must be submitted to the Office of the Secretary in triplicate and signed in the same manner as the original application.

Sincerely,



Dennis Williams
Chief, FM Branch
Audio Services Division
Mass Media Bureau

cc: Roy P. Stype, III
: Haley, Bader & Potts
: John D. Bortel
: Cohn & Marks